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43640 7590 04/01/2009 DILLON & YUDELL LLP 8911 NORTH CAPITAL OF TEXAS HWY SUITE 2110 AUSTIN, TX 78759				
EXAMINER				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/763,081

**Applicant(s)**

CHAKRAVARTY ET AL.

**Examiner**

SUSAN FOSTER RAYYAN

**Art Unit**

2167

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-27, 29-34 and 36-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-27, 29-34 and 36-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-21,28,35,42 are canceled.
2. Claims 22-27, 29-34,36-41 are currently pending.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 22-27, 29-34,36-41 rejected under 35 U.S.C. 103(a) as being unpatentable over US Application Publication Number 2005/0071239 issued to Peter James Tormey et al ("Tormey") and US Patent 6,675,212 issued to Jon Michael Greenwood ("Greenwood") and US 2005/0114306 issued to Chen Shu et al ("Shu").**

**As per claim 22** Tormey teaches:

sending a request for a first file from a communication program(paragraph 5, lines 7-9 and Figure 1A, Reference 20, as search using a web-based search engine and paragraph 43 lines 1-22 receiving a listing and paragraph 44, lines 1-2);  
detecting whether an option to forward a received first file to a mail server has been activated (paragraph 78, paragraph 83, as e-mail response );

said communication program encapsulating said first file in a message transmission and sending said message transmission to said mail server wherein said mail server is responsive to a mail request by a mail client at a specified target address (paragraph 78, paragraph 83 as e-mail response).

Tormey does not explicitly teach in response to activating ....within a user-predetermined timeout period ...determining said communication program is de-selected as a foreground task running on a data processing system and in response to said user-predetermine timeout period expiring before said file is received and upon receipt of said first file by said communication program. Greenwood does teach does teach this limitation at column 8, lines 20-50 as separate monitoring task is spawned to monitor the downloading of the requested file in the background portion of the interface and column 8, 50-67, as process checks whether a specified time period has elapsed, allows the process to stop waiting for a response. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tormey with in response to activating ....within a user-predetermined timeout period ...determining said communication program is de-selected as a foreground task running on a data processing system and in response to said user-predetermine timeout period expiring before said file is received and upon receipt of said first file by said communication program to improve the efficiency of data browsing as described by Greenwood at (column 6, lines 51-53).

Tormey and Greenwood does not explicitly teach a data processing system waiting at least one user increment period .... Wherein said at east one increment period is temporarily and dynamically adjusted. Shu does teach this limitation at [0045], as response timeout and wait a timeout period for the return of results, paragraph [0054], timeout configurable and [0079], timeout. It would have been obvious to a person of ordinary skill I the art at the time the invention was made to modify Tormey and Greenwood with teach a data processing system waiting at least one user increment period .... Wherein said at east one increment period is temporarily and dynamically adjusted to limit the time that a search service spends searching so as to limit the resources expended by the search service performing the search ad described by Shu at [0045].

**As per claim 23** same as claim arguments above and Greenwood teaches:  
in response to determining said user-predetermined timeout period specified in response to a timeout query has not expired, and upon receipt of said first file...  
program, displaying the said first file(column 2, lines 59, bridging to column 3, line 16,  
as data file requested is deliverable and at column 7, lines 29-34, as monitor for delay).

**As per claim 24** same as claim arguments above and Greenwood teaches:  
Responsive to said user-predetermined length of time expiring, detecting whether a user prefers to continue waiting for said first file (column 7, lines 16-27, as user may select and deselect monitoring of data requests).

**As per claim 25** same as claim arguments above and Tormey teaches:

designating a first email address as said target address (paragraph 78, user supplies e-mail address to supplier as a reply address).

**As per claim 26** same as claim arguments above and Tormey teaches:

designating a second email address as said target address (paragraph 78, user supplies e-mail address to supplier as a reply address).

**As per claim 27** same as claim arguments above and Shu teaches:

adjusting said user increment period in response to a task priority of said

communication program (response timeout ref.no.408and [0045] ,[101], user timeout period.

**As per independent claim 29** Tormey teaches:

means for sending a request for a first file from a communication program paragraph 5, lines 7-9 and Figure 1A, Reference 20, as search using a web-based search engine and paragraph 43 lines 1-22 receiving a listing and paragraph 44, lines 1-2);

means for detecting whether an option to forward from said communication program a received first file to a mail server has been activated (paragraph 78, paragraph 83, as e-mail response );

and means for encapsulating , ...said first file in a message transmission and sending said message transmission to said mail server ... wherein said mail server is responsive to a mail request by a mail client containing at a specified target address (paragraph 78, paragraph 83 as e-mail response).

Tormey does not explicitly teach means, in response to activating ....within a user-predetermined timeout period ...determining said communication program is de-selected as a foreground task running on a data processing system and in response to said user-predetermine timeout period expiring before said file is received and upon receipt of said first file by said communication program. Greenwood does teach does teach this limitation at column 8, lines 20-50 as separate monitoring task is spawned to monitor the downloading of the requested file in the background portion of the interface and column 8, 50-67, as process checks whether a specified time period has elapsed, allows the process to stop waiting for a response. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tormey with in response to activating ....within a user-predetermined timeout period ...determining said communication program is de-selected as a foreground task running on a data processing system and in response to said user-predetermine timeout period expiring before said file is received and upon receipt of said first file by said communication program to improve the efficiency of data browsing as described by Greenwood at (column 6, lines 51-53).

Tormey and Greenwood does not explicitly teach waiting at least one user increment period .... Wherein said at east one increment period is temporarily and dynamically adjusted. Shu does teach this limitation at [0045], as response timeout and wait a timeout period for the return of results.

It would have been obvious to a person of ordinary skill I the art at the time the invention was made to modify Tormey and Greenwood with teach waiting at least one user increment period .... Wherein said at east one increment period is temporarily and dynamically adjusted to limit the time that a search service spends searching so as to limit the resources expended by the search service performing the search ad described by Shu at [0045].

**Claim 30** is rejected based on the same rationale as claim 23.

**As per claim 31** same as claim arguments above and Greenwood teaches:

means for detecting whether a user who sent said request prefers to continue waiting for receipt of said first file, in response to said user-predetermined length of time expiring (column 7, lines 16-27, as user may select and deselect monitoring of data requests).



**As per claim 32** same as claim arguments above and Tormey teaches:

means for designating a first email address as said target address (paragraph 78, user supplies e-mail address to supplier as a reply address).

**As per claim 33** same as claim arguments above and Tormey teaches:

means for designating a second email address as said target address (paragraph 78, user supplies e-mail address to supplier as a reply address).

**As per claim 34** same as claim arguments above and Greenwood teaches:

means for adjusting said predetermined length of time in response to a task priority of said communication program (column 7, lines 16-27, as user may select and deselect monitoring of data requests).

**As per independent claim 36** Tormey teaches:

sending a request for a first file from a communication program (paragraph 5, lines 7-9 and Figure 1A, Reference 20, as search using a web-based search engine and paragraph 43 lines 1-22 receiving a listing and paragraph 44, lines 1-2);

detecting whether an option to forward from said communication program a received first file to a mail server has been activated (paragraph 78, paragraph 83, as e-mail response );

said communication program encapsulating said first file in a message transmission and redirecting said message transmission to said mail server wherein said mail server

is responsive to a mail request by a mail client containing a target address (paragraph 78, paragraph 83 as e-mail response).

Tormey does not explicitly teach in response to activating ....within a user-predetermined timeout period ...determining said communication program is de-selected as a foreground task running on a data processing system and in response to said user-predetermine timeout period expiring before said file is received and upon receipt of said first file by said communication program. Greenwood does teach does teach this limitation at column 8, lines 20-50 as separate monitoring task is spawned to monitor the downloading of the requested file in the background portion of the interface and column 8, 50-67, as process checks whether a specified time period has elapsed, allows the process to stop waiting for a response. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tormey with in response to activating ....within a user-predetermined timeout period ...determining said communication program is de-selected as a foreground task running on a data processing system and in response to said user-predetermine timeout period expiring before said file is received and upon receipt of said first file by said communication program to improve the efficiency of data browsing as described by Greenwood at (column 6, lines 51-53).

Tormey and Greenwood does not explicitly teach a data processing system waiting at least one user increment period .... Wherein said at east one increment

period is temporarily and dynamically adjusted. Shu does teach this limitation at [0045], as response timeout and wait a timeout period for the return of results.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tormey and Greenwood with teach a data processing system waiting at least one user increment period .... Wherein said at least one increment period is temporarily and dynamically adjusted to limit the time that a search service spends searching so as to limit the resources expended by the search service performing the search as described by Shu at [0045].

**As per claim 37** same as claim arguments above and Greenwood teaches:

in response to determining said user-predetermined timeout period specified in response to a timeout query has not expired, and upon receipt of said first file by said communication program, displaying the said first file(column 2, lines 59, bridging to column 3, line 16, as data file requested is deliverable and at column 7, lines 29-34, as monitor for delay).

**As per claim 38** same as claim arguments above and Greenwood teaches:

responsive to said user-predetermined timeout expiring, detecting whether a user ...prefers to continue waiting for receipt of said first file (column 7, lines 16-27, as user may select and deselect monitoring of data requests).

**As per claim 39** same as claim arguments above and Tormey teaches:

designating a first email address as said target address (paragraph 78, user supplies e-mail address to supplier as a reply address).

**As per claim 40** same as claim arguments above and Tormey teaches:

designating a second email address as said target address (paragraph 78, user supplies e-mail address to supplier as a reply address).

**As per claim 41** same as claim arguments above and Shu teaches:

adjusting said user-predetermined length of time in response to a task priority of said communication program (response timeout ref.no.408and [0045], [101], user timeout period.

### **Response to Arguments**

4. Applicant's arguments with respect to claims 22-27, 29-34, 36-41 have been considered but are moot in view of the new ground(s) of rejection.
5. Regarding Applicant's arguments, Tormey does not explicitly teach in response to activating ....within a user-predetermined timeout period ...determining said communication program is de-selected as a foreground task running on a data processing system and in response to said user-predetermine timeout period expiring before said file is received and upon receipt of said first file by said communication program. Greenwood does teach does teach this limitation at column 8, lines 20-50 as separate monitoring task is spawned to monitor the downloading of the requested file in

the background portion of the interface and column 8, 50-67, as process checks whether a specified time period has elapsed, allows the process to stop waiting for a response. Tormey and Greenwood does not explicitly teach a data processing system waiting at least one user increment period .... Wherein said at east one increment period is temporarily and dynamically adjusted. Shu does teach this limitation at [0045], as response timeout and wait a timeout period for the return of results. Paragraph [0054], timeout configurable and [0079], timeout.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan F. Rayyan whose telephone number is 571-272-1675. The examiner can normally be reached on M-F, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SUSAN FOSTER RAYYAN/

Examiner, Art Unit 2167

March 30, 2009

/John R. Cottingham/

Supervisory Patent Examiner, Art Unit 2167

